



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

FILED

SEP 6 2020

BILL 69 (2018), CD1

PURSUANT TO ROH Sec. 1-2.4

A BILL FOR AN ORDINANCE

RELATING TO REAL PROPERTY TAXATION.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to create a real property tax classification for vacant residential properties.

SECTION 2. Section 8-7.1, Revised Ordinances of Honolulu 1990 ("Valuation—Considerations in fixing"), as amended by Ordinance 19-32, is amended by amending subsection (c) to read as follows:

"(c) (1) Real property shall be classified into the following general classes, upon consideration of its highest and best use, and upon other criteria set forth in this section:

- (A) Residential;
- (B) Hotel and resort;
- (C) Commercial;
- (D) Industrial;
- (E) Agricultural;
- (F) Preservation;
- (G) Public service;
- (H) Vacant agricultural;
- (I) Residential A; ~~[and]~~
- (J) Bed and breakfast home~~[-];~~ and
- (K) Vacant residential.

(2) In assigning real property to one of the general classes, the director shall give major consideration to the districting established by the city in its general plan and zoning ordinance, specific class definitions or criteria set



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forth in this section, and such other factors which influence highest and best use.

Notwithstanding the city's zoning district classification, the director shall assign to the agricultural class any real property classified as tree farm property under HRS Chapter 186.

- (3) When real property is subdivided into condominium units, each unit and its appertaining common interest:
- (A) Shall be deemed a parcel and assessed separately from other units; and
 - (B) Shall be classified as follows:
 - (i) If the unit has a single, legally permitted, exclusive actual use, it shall be classified upon consideration of the unit's actual use into one of the general classes in the same manner as real property; or
 - (ii) If the unit has multiple, legally permitted uses; it shall be classified:
 - (aa) Upon consideration of the unit's highest and best use into one of the general classes in the same manner as real property; or
 - (bb) Residential, only upon approved dedication as provided in Section 8-7.5 when the unit is legally permitted multiple exclusive uses including residential use; or
 - (iii) If the unit is a condominium parking unit or a condominium storage unit, it shall be classified residential, only upon approved dedication when the unit is used in conjunction with a unit in residential use within the project.
- (4) Notwithstanding any provision contained in this subsection, a condominium unit that is used at any time during the assessment year as a time share unit, shall be classified for the following tax year as hotel and resort unless:



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- (A) The unit is on property zoned as apartment, apartment mixed use, apartment precinct, or apartment mixed use precinct;
- (B) The property on which the unit is located does not include a lobby with a clerk's desk or counter with 24-hour clerk service facilities for registration and keeping of records relating to persons using the property; and
- (C) The unit is part of a condominium property regime established pursuant to HRS Chapter 514A, as it read prior to its repeal on January 1, 2019, or HRS Chapter 514B.

If the requirements of paragraphs (A), (B), and (C) are met, the time share unit shall be classified as residential. For purposes of this subdivision, "assessment year" means the one-year period beginning October 2nd of the previous calendar year and ending October 1st, inclusive, of the calendar year preceding the tax year, and "time sharing" has the same meaning as defined in Section 21-10.1.

- (5) "Vacant agricultural" means a parcel, or portion thereof, that would otherwise be classified agricultural by the director upon major consideration of the districting established by the city in its general plan and zoning ordinance and of such other factors that influence highest and best use, but which parcel, or portion thereof:
 - (A) Has no residential buildings; and
 - (B) Is not dedicated for agricultural purposes.

If a portion of a parcel is dedicated as vacant agricultural, the remainder of the parcel that is zoned agricultural must be dedicated for agricultural use.

- (6) Notwithstanding any provision contained in this subsection, all real property actually used by a public service company in its public service business shall be classified public service. For purposes of this subsection, "public service company" means a public utility, except airlines, motor carriers, common carriers by water, and contract carriers, where:



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- (A) "Public utility" includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telecommunications messages, or the furnishing of facilities for the transmission of intelligence by electricity by land, water, or air within the state, or between points within the state, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage; provided that the term:
- (i) Includes any person insofar as that person owns or operates a private sewer company or sewer facility;
 - (ii) Includes any telecommunications carrier or telecommunications common carrier;
 - (iii) Does not include any person insofar as that person owns or operates an aerial transportation enterprise;
 - (iv) Does not include persons owning or operating taxicabs, as defined in this subsection;
 - (v) Does not include common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points that the Public Utilities Commission of the State of Hawaii finds to be inadequately serviced without regulation under this chapter;
 - (vi) Does not include persons engaged in the business of warehousing or storage unless the Public Utilities Commission of the State of Hawaii finds that regulation thereof is necessary in the public interest;
 - (vii) Does not include:
 - (aa) The business of any carrier by water to the extent that the carrier enters into private contracts for towage, salvage, hauling, or carriage between points within



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the state and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally; and

- (bb) The business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the state or on luxury round-trip cruises returning to the point of departure;
- (viii) Does not include any person who:
 - (aa) Controls, operates, or manages plants or facilities for the production, transmission, or furnishing of power primarily or entirely from non-fossil fuel sources; and
 - (bb) Provides, sells, or transmits all of that power, except such power as is used in its own internal operations, directly to a public utility for transmission to the public;
- (ix) Does not include a telecommunications provider only to the extent determined by the Public Utilities Commission of the State of Hawaii, pursuant to applicable state law;
- (x) [~~Shall~~] Does not include any person who controls, operates, or manages plants or facilities developed pursuant to applicable state law for conveying, distributing, and transmitting water for irrigation and such other purposes that shall be held for public use and purpose; and
- (xi) [~~Shall~~] Does not include any person who owns, controls, operates, or manages plants or facilities for the reclamation of wastewater; provided that:
 - (aa) The services of the facility shall be provided pursuant to a service contract between the person and a state or county agency and at least 10 percent of the wastewater processed is used directly by the state or county which has entered into the service contract;



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- (bb) The primary function of the facility shall be the processing of secondary treated wastewater that has been produced by a municipal wastewater treatment facility that is owned by a state or county agency;
- (cc) The facility shall not make sales of water to residential customers;
- (dd) The facility may distribute and sell recycled or reclaimed water to entities not covered by a state or county service contract; provided that, in the absence of regulatory oversight and direct competition, the distribution and sale of recycled or reclaimed water shall be voluntary and its pricing fair and reasonable. For purposes of this subparagraph, "recycled water" and "reclaimed water" mean treated wastewater that by design is intended or used for a beneficial purpose; and
- (ee) The facility shall not be engaged, either directly or indirectly, in the processing of food wastes;
- (B) "Motor Carrier" means a common carrier or contract carrier transporting freight or other property on the public highways, other than a public utility or taxicab;
- (C) "Contract carrier" means a person other than a public utility or taxicab which, under contracts or agreements, engages in the transportation of persons or property for compensation, by land, water, or air;
- (D) "Carrier" means a person who engages in transportation, and does not include a person such as a freight forwarder or tour packager who provides transportation by contracting with others, except to the extent that such person engages in transportation;
- (E) "Taxicab" means and includes:
 - (i) Any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely, the passenger hires the vehicle on call or at a fixed



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stand, with or without baggage for transportation, and controls the vehicle to the passenger's destination; and

- (ii) Any motor vehicle having seating accommodations for eight or fewer passengers used in the movement of passengers on the public highways between a terminal, i.e., a fixed stand, in the city of Honolulu, and a terminal in a geographical district outside the limits of the city of Honolulu, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that passengers may be unloaded at any point between terminals; and provided further that this definition relating to motor vehicles operating between terminals shall pertain only to those motor vehicles whose operators or owners were duly licensed under any applicable provision of law or ordinance and doing business between such terminals on January 1, 1957;
- (F) "Telecommunications carrier" or "telecommunications common carrier" means any person that owns, operates, manages, or controls any facility used to furnish telecommunications services for profit to the public, or to classes of users as to be effectively available to the public, engaged in the provision of services, such as voice, data, image, graphics, and video services, that make use of all or part of their transmission facilities, switches, broadcast equipment, signaling, or control devices; and
- (G) "Telecommunications service" or "telecommunications" means the offering of transmission between or among points specified by a user, of information of the user's choosing, including voice, data, image, graphics, and video without change in the form or content of the information, as sent and received, by means of electromagnetic transmission, or other similarly capable means of transmission, with or without benefit of any closed transmission medium, and does not include cable service as defined under applicable state law.
- (7) "Vacant residential" means a parcel, or portion thereof, that: would otherwise be classified residential by the director; is a condominium dwelling unit or has been improved with a duplex unit or detached dwelling; and has been unoccupied for more than 180 consecutive days during the previous tax year. Notwithstanding the foregoing, "vacant residential" does not include any such parcel, or portion thereof, if:



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- (A) The owner or tenant of the parcel, or portion thereof, is undergoing medical care that requires the owner or tenant to reside in a place other than on the parcel, or portion thereof, for longer than 45 days during the previous tax year;
 - (B) Title to the property was transferred during the previous tax year;
 - (C) The owner of the parcel, or portion thereof, is deceased and a determination of ownership is pending before a probate court of competent jurisdiction;
 - (D) The dwelling unit thereon is undergoing major renovations that require the owner or tenant of the parcel, or portion thereof, to vacate the parcel, or portion thereof, for longer than 45 days during the previous tax year; or
 - (E) The parcel, or portion thereof, is subject to a court order that prohibits occupancy.
- (8) For purposes of subdivision (7):
- "Detached dwelling" means the same as defined in Section 21-10.1.
- "Duplex unit" means the same as defined in Section 21-10.1.
- "Dwelling unit" means the same as defined in Section 21-10.1."

SECTION 3. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.



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SECTION 4. This ordinance takes effect upon its approval and applies to the tax years beginning July 1, 2022.

INTRODUCED BY:

Ikaika Anderson

DATE OF INTRODUCTION:

September 6, 2018
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

KIRK CALDWELL, Mayor
City and County of Honolulu

FILED
SEP 6 2020
PURSUANT TO ROH Sec. 1-24